

ORDINANCE NO. 2004-33

EXTENSION AND MODIFICATION OF URGENCY INTERIM ORDINANCE
PROHIBITING CERTAIN LAND USE DEVELOPMENT IN THE KENSINGTON AREA

The Contra Costa County Board of Supervisors ordains as follows:

SECTION I. FINDINGS AND PURPOSE.

- A. The lands within the unincorporated community of Kensington are located generally south and east of the City of El Cerrito, north of the City of Berkeley, and west of Wildcat Canyon and Tilden regional parks. More specifically, the Kensington area is shown on Exhibit A and defined in Exhibit B, which are attached hereto and incorporated herein by this reference.
- B. The lands within the Kensington area are designated in the County General Plan primarily for high density single family residential use and are zoned primarily for single family residential uses.
- C. The terrain of the Kensington area is hilly. Parcels and lots located in residential zoning districts in the Kensington area have distant and panoramic views of skylines, bridges, distant cities, distinctive geologic features, hillside terrain, wooded canyons, ridges, or bodies of water.
- D. The Kensington community values the preservation of views and solar access, privacy in living areas, adequate off-street parking, compatibility of structures within neighborhoods with regard to bulk and scale, and isolation from offensive emissions.
- E. The County is contemplating adopting a zoning ordinance that would establish the Kensington Combining District. The purpose of the ordinance would be to establish regulations allowing property owners to improve their property while minimizing impacts upon surrounding properties, thereby preserving the values of the Kensington community.
- F. The Kensington Combining District ordinance would establish an overlay zone that, when combined with an underlying zoning district, would require public hearings on development applications under specified conditions. Under the ordinance, if a hearing is required, the zoning administrator would be required to evaluate features of the proposed development on the basis of their impacts on neighboring properties.
- G. The County has been requested to amend the County General Plan so that the land uses authorized by the Kensington Combining District zoning ordinance would be compatible

with the objectives, policies, general land uses, and programs specified in the General Plan.

- H. The County intends to initiate a study to amend the County General Plan so that the Kensington Combining District would be consistent with the General Plan.
- I. A threat to the public health, safety, and welfare would result if any land-use entitlements or building permits for residential structures proposed for undeveloped parcels or undeveloped lots located in the Kensington area are accepted and approved before the General Plan is amended and the Kensington Combining District zoning ordinance is adopted. A threat to the public health, safety, and welfare would result if any land-use entitlements or building permits for residential structures, residential additions, or new or modified residential accessory buildings proposed for conforming lots located in residential zoning districts in the Kensington area are accepted and approved before the General Plan is amended and the Kensington Combining District zoning ordinance is adopted. These acceptances and approvals would lead to a degradation of the unique residential character of the Kensington area.

SECTION II. EXTENSION. Ordinance No. 2004-28, as modified by Section IV, below, is extended for 10 months and 15 days, through June 28, 2005.

SECTION III. PROHIBITIONS. While this interim ordinance is in effect, no applications for land-use entitlements or building permits shall be accepted or processed, and no land-use entitlements or building permits shall be approved or issued, for any of the following in the Kensington area:

- (a) Any residential structure proposed for any undeveloped parcel or undeveloped lot.
- (b) Any residential structure, addition to a residential structure, or new or modified residential accessory building proposed for a lot that has the minimum lot width or lot area required by Divisions 82 and 84 for the residential zoning district where the lot is situated.

SECTION IV. EXEMPTION. The prohibitions set forth in Section III do not apply to any of the following in the Kensington area:

- (a) Any discretionary land-use entitlement that authorizes the construction of a residential structure, addition to a residential structure, or new or modified residential accessory building on any lot or parcel, as long as the discretionary land-use entitlement was approved as of the effective date of Ordinance No. 2004-28 (June 29, 2004).
- (b) Any building permit application, as long as the building permit application received zoning clearance from the Community Development Department as of the effective date of Ordinance No. 2004-28 (June 29, 2004).

ORDINANCE NO. 2004-33

SECTION V. REPORTS. In accordance with subdivision (d) of Government Code section 65858, ten days before the expiration of this ordinance or any extension of it, the Community Development Department shall file with the Clerk of this Board a written report describing the measures taken to alleviate the conditions that led to the adoption of this urgency interim ordinance.

SECTION VI. SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions or clauses or applications thereof that can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses of this ordinance are declared to be severable.

SECTION VII. DECLARATION OF URGENCY. This ordinance is hereby declared to be an urgency ordinance for the immediate preservation of the public safety, health, and welfare of the County, and it shall take effect immediately upon its adoption. The facts constituting the urgency of this ordinance's adoption are set forth in Section I.

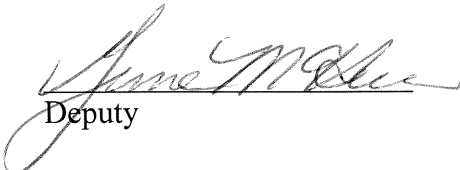
SECTION VIII. EFFECTIVE PERIOD. This ordinance becomes effective immediately upon passage by four-fifths vote of the Board and shall continue in effect for a period of 10 months and 15 days, through June 28, 2005, pursuant to Government Code section 65858. Within 15 days of passage, this ordinance shall be published once with the names of the supervisors voting for and against it in the Contra Costa Times, a newspaper published in this County.

PASSED ON August 10, 2004 by the following vote:

AYES: Supervisors Gioia, Uilkema, Greenberg, DeSaulnier and Glover
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST: JOHN SWEETEN
Clerk of the Board of Supervisors
and County Administrator


Board Chair

By: 
Deputy

[SEAL]

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ORDINANCE NO. 2004-33